

Date of Decision: 5th September 1995

SPECIAL CIVIL APPLICATION NO. 3940 of 1988

FOR APPROVAL AND SIGNATURE

THE HONOURABLE MR. JUSTICE A.N. DIVECHA

1. Whether Reporters of Local Papers may be allowed to see the judgment? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of judgment? No
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? No
5. Whether it is to be circulated to the Civil Judge? No

Shri Y.S. Mankad, Advocate, for the Petitioners

Shri K.C. Shah, Asst. Govt. Pleader, for the Respondents

CORAM: A.N. DIVECHA, J.
(Date: 5th September 1995)

ORAL JUDGMENT

Some threatening letters including one of arresting the petitioners are under challenge in this petition under Art. 226 of the Constitution of India.

2. It is not necessary to set out in detail the facts giving rise to this petition. Petitioner No.1 is the Chief Officer of the Municipality at Anjar and petitioner No.2 is an employee of the said municipality. It appears that the Assistant Collector wanted the Chief Officer to supply certain information to the Maintenance Surveyor. It appears that the

Chief Officer did not supply. Thereupon the Assistant Collector issued some threatening letters including arrest of the Chief Officer for non-supply of record. Petitioner No.2 also apprehended his arrest. Thereupon he petitioners have moved this court under Art. 226 of the Constitution of India for challenging the apprehended action of their arrest at the hands of the Assistant Collector (respondent No.1 herein).

3. It appears that the petitioners were acting under the orders of the then President of the Municipality. I am told at the Bar that the term of the Municipal Board was over long back and even the Administrator was appointed thereafter and fresh elections have been held and the new Board has come into existence. It is possible that respondent No.1 also might have been transferred and the problem regarding showing of the concerned record might have been over. It would not be necessary to arrest the petitioners for any alleged breach made by them of respondent No. 1's orders. If the problem is still not resolved, the concerned officer of respondent No.1 would see to it that it is resolved in an atmosphere which is befitting the dignity of both the sides. No arrest of the petitioners should be made and no threatening letters need be issued. The parties should act according to law. It would be desirable on the part of the petitioners to show whatever record is called for according to law.

4. In view of my aforesaid discussion, I am of the opinion that nothing more is required to be done in this case. This petition deserves to be disposed of accordingly on the ground that it has become infructuous by passage of time. It would be open to the parties to revive this petition in the case of difficulties.

5. In the result, this petition fails on account of its having become infructuous by passage of time. It is therefore rejected. Rule is accordingly discharged with no order as to costs.
